MONTANA LEGISLATIVE HISTORY

Chapter 593 1987

Bill H _____ S 325 Original bill & history Y C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	3/30	X C	Hearing Date(s)	3/4	X C
	4/6	X C		3/6	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ___ Yes X No

Committee _____ Report _____

SENATE BILL NO. 325

INTRODUCED BY MCCALLUM

IN THE SENATE

FEBRUARY 11, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
MARCH 7, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 9, 1987	PRINTING REPORT.
MARCH 11, 1987	SECOND READING, DO PASS.
MARCH 12, 1987	ENGROSSING REPORT.
MARCH 13, 1987	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 13, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
APRIL 6, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
APRIL 9, 1987	SECOND READING, CONCURRED IN.
APRIL 10, 1987	THIRD READING, CONCURRED IN. AYES, 94; NOES, 1.
	RETURNED TO SENATE WITH STATEMENT OF INTENT.

IN THE SENATE

APRIL 15, 1987

RECEIVED FROM HOUSE.

SECOND READING, STATEMENT OF INTENT ADOPTED.

ON MOTION, RULES SUSPENDED TO PLACE BILL ON THIRD READING THIS DAY.

THIRD READING, STATEMENT OF INTENT ADOPTED.

SENT TO ENROLLING.

Ch. No.	Senate Bill	House Bill	Sponsor	Title
589	177		Yellowtail	AN ACT TO REVISE AND CONTINUE THE NONGAME WILDLIFE CHECKOFF PROGRAM; TO REMOVE THE REQUIREMENT THAT CHECKOFF CONTRIBUTIONS REPLACE LICENSE FEE FUNDING FOR THE NONGAME WILDLIFE PROGRAM; TO PROVIDE FOR CONTINGENT COLLECTION OF ADMINISTRATIVE COSTS; AND AMENDING SECTIONS 87-5-121 AND 87-5-123, MCA, AND SECTION 7, CHAPTER 627, LAWS OF 1983.....Page 1519
590	190		Lybeck	AN ACT REQUIRING A BORROWER TO ACKNOWLEDGE THAT CERTAIN ENCUMBERED REAL PROPERTY IS NOT EXEMPT FROM EXECUTION AS A HOMESTEAD; AND PROVIDING AN APPLICABILITY DATE.....Page 1520
591	272		Lynch	AN ACT TO EXEMPT FROM BENEFICIAL USE TAXATION CERTAIN LANDS AND EASEMENTS OF ABANDONED RAILROADS ACQUIRED BY THE STATE PURSUANT TO TITLE 60, CHAPTER 11, PART 1; DEFINING "ABANDONMENT"; AMENDING SECTION 15-24-1203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.....Page 1521
592	279		Keating	AN ACT PROVIDING FOR SECURITY OF DATA AND INFORMATION TECHNOLOGY RESOURCES; ESTABLISHING THE RESPONSIBILITIES OF STATE AGENCIES, THE BOARD OF REGENTS, THE SUPREME COURT, AND THE DEPARTMENT OF ADMINISTRATION; AND AMENDING SECTION 2-15-102, MCA.....Page 1522
593	325		McCallum	AN ACT DIRECTING THE DEPARTMENT OF REVENUE TO CONSIDER REDUCTIONS FROM MARKET VALUE FOR PHYSICAL DEPRECIATION, FUNCTIONAL OBSOLESCENCE, AND ECONOMIC OBSOLESCENCE WHEN USING CONSTRUCTION COST TO APPROXIMATE MARKET VALUE FOR PROPERTY TAX PURPOSES; AMENDING SECTION 15-8-111, MCA; AND PROVIDING AN APPLICABILITY DATE.....Page 1525
594	337		Manning	AN ACT TO CLARIFY THE EXTENT OF THE PROPERTY TAX EXEMPTION GRANTED TO SURVIVING SPOUSES OF DISABLED VETERANS; AND AMENDING SECTION 15-6-211, MCA.....Page 1527
595	389		McCallum	AN ACT TO INCREASE THE ANNUAL LICENSE TAX FEE ON MOTOR VEHICLES POWERED BY LIQUEFIED PETROLEUM GAS TO BE COMMENSURATE WITH THE TAX ON GASOLINE AND DIESEL FUEL; AMENDING SECTION 15-71-101, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE.....Page 1528
596		361	Ramirez	AN ACT PROVIDING THAT NEW VALUES RESULTING FROM PROPERTY TAX REVALUATION ARE NOT PLACED ON THE TAX ROLLS UNTIL 1 YEAR AFTER THE END OF THE REVALUATION CYCLE; REQUIRING TAXPAYERS TO APPEAL NEW VALUES BEFORE THEY ARE PLACED ON THE TAX ROLLS; AND AMENDING SECTION 15-7-111, MCA.....Page 1529
597		397	Spaeth	AN ACT TO INCREASE UNDER CERTAIN CONDITIONS THE KILOVOLT THRESHOLD FOR THE PURPOSE OF DEFINING A TRANSMISSION LINE UNDER THE MONTANA MAJOR FACILITY SITING ACT; TO PROVIDE FOR NOTICE TO THE PUBLIC AND TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; TO PROVIDE FOR VERIFICATION OF LANDOWNER CONSENT; AMENDING SECTION 75-20-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.....Page 1530
598		526	Schye	AN ACT TO PROVIDE FOR THE LEASE OR PURCHASE OF LAND OR EASEMENTS FOR WILDLIFE HABITAT AND THE DEVELOPMENT AND MAINTENANCE THEREOF; TO PROVIDE FUNDING THROUGH HUNTING LICENSE FEE INCREASES; TO SPECIFY THE NUMBER OF NONRESIDENT DEER "A" LICENSES THAT MAY BE SOLD; AMENDING SECTIONS 87-2-403, 87-2-504, 87-2-505, 87-2-507, 87-2-701, AND 87-2-711, MCA; PROVIDING A DELAYED EFFECTIVE DATE; AND PROVIDING A TERMINATION DATE.....Page 1533

SENATE PAGE NO. 310.

323 INTRODUCED BY YELLOWTAIL, ET AL.: A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE IN THE DEFINITION OF RESIDENT STUDENT ANY PERSON, INCLUDING HIS DEPENDENTS, WHO PAID MONTANA STATE INCOME TAX FOR 2 CONSECUTIVE YEARS ON AN INCOME OF AT LEAST $10,000 EACH YEAR; AND AMENDING SECTION 20-25-501, MCA."

SENATE PAGE NO. 310.

324 INTRODUCED BY PINSONEAULT: A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE AN OUT-OF-STATE TRANSIENT RETAIL MERCHANT TO PAY A $25 LICENSE FEE OR POST A $2,000 BOND TO DO BUSINESS IN THIS STATE; AND AMENDING SECTIONS 7-21-2404 AND 7-21-2407, MCA."

SENATE PAGE NO. 310, **457.**

325 INTRODUCED BY MCCALLUM: A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF REVENUE TO CONSIDER REDUCTIONS FROM MARKET VALUE FOR PHYSICAL DEPRECIATION, FUNCTIONAL OBSOLESCENCE, AND ECONOMIC OBSOLESCENCE WHEN USING CONSTRUCTION COST TO APPROXIMATE MARKET VALUE FOR PROPERTY TAX PURPOSES; AMENDING SECTION 15-8-111, MCA; AND PROVIDING AN APPLICABILITY DATE."

SENATE PAGE NO. 310, 734, 741, **789,** 793, **821,** 1469, 1506, **1558, 1572,** 1601, 1617, 1621, 1727.

HOUSE PAGE NO. 1111, 1860, 1917, **1925, 1974,** 1976, 2066.

326 INTRODUCED BY HAFFEY, ET AL.: A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A COST-OF-LIVING INCREASE IN SERVICE AND DISABILITY RETIREMENT ALLOWANCES AND SURVIVORSHIP ALLOWANCES FOR CERTAIN RETIRED MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM OR THEIR BENEFICIARIES; AND PROVIDING AN EFFECTIVE DATE."

SENATE PAGE NO. 329, 435, 453, **499,** 507, **608,** 870, 887, 909, 1006.

HOUSE PAGE NO. 890, 1083, **1122,** 1137, **1147,** 1407.

327 INTRODUCED BY YELLOWTAIL, ET AL.: A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE IRRIGATION DISTRICTS TO ISSUE REVENUE BONDS TO FUND IRRIGATION PROJECTS; AMENDING SECTIONS 85-7-1603, 85-7-1612, AND 85-7-2001, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

SENATE PAGE NO. 329, **486,** 595, **623,** 643, **674,** 870, 909, 931, 1023.

HOUSE PAGE NO. 956, 1067, **1115,** 1137, **1148.**

328 INTRODUCED BY MAZUREK: A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF ADMINISTRATION TO CONTRACT PRINTING OPERATIONS THROUGH MONTANA BUSINESSES; CHANGING RESIDENCE REQUIREMENTS; PROHIBITING THE STATE FROM ENGAGING IN COMMERCIAL PRINTING; AMENDING SECTIONS 18-1-103, 18-7-101, 18-7-104,

2/11	INTRODUCED		
2/11	REFERRED TO BUSINESS & INDUSTRY		
2/11	FISCAL NOTE REQUESTED		
2/16	HEARING		
2/17	FISCAL NOTE RECEIVED		
2/19	ADVERSE COMMITTEE REPORT ADOPTED	49	1

SB 325 INTRODUCED BY MCCALLUM
ALLOW REDUCTION FROM MARKET VALUE FOR DEPRECIATION WHEN BASED ON CONSTRUCTION COST

2/11	INTRODUCED		
2/11	REFERRED TO TAXATION		
2/11	FISCAL NOTE REQUESTED		
2/17	FISCAL NOTE RECEIVED		
3/04	HEARING		
3/07	COMMITTEE REPORT--BILL PASSED		
3/11	2ND READING PASSED	50	0
3/13	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/13	REFERRED TO TAXATION		
3/30	HEARING		
4/06	COMMITTEE REPORT--BILL CONCURRED STATEMENT OF INTENT ADOPTED		
4/09	2ND READING CONCURRED	94	1
4/10	3RD READING CONCURRED	94	1
	RETURNED TO SENATE		
4/15	2ND READING STATEMENT OF INTENT CONCURRED	50	0
4/15	3RD READING STATEMENT OF INTENT CONCURRED	50	0
4/17	SIGNED BY PRESIDENT		
4/20	SIGNED BY SPEAKER		
4/20	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 593 EFFECTIVE DATE: 10/01/87		

SB 326 INTRODUCED BY HAFFEY, DONALDSON, LYNCH, ET AL.
PROVIDING COST-OF-LIVING INCREASE TO CERTAIN PUBLIC EMPLOYEES' RETIREMENT SYSTEM RETIREES

2/12	INTRODUCED		
2/12	REFERRED TO STATE ADMINISTRATION		
2/18	HEARING		
2/18	COMMITTEE REPORT--BILL PASSED		
2/20	FISCAL NOTE REQUESTED		
2/20	2ND READING PASSED	49	0
2/21	FISCAL NOTE RECEIVED		
2/23	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/24	REFERRED TO STATE ADMINISTRATION		
3/12	HEARING		
3/12	COMMITTEE REPORT--BILL CONCURRED		
3/14	2ND READING CONCURRED	74	23
3/16	3RD READING CONCURRED	81	16
	RETURNED TO SENATE		
3/18	SIGNED BY PRESIDENT		
3/19	SIGNED BY SPEAKER		

In compliance with a written request, there is hereby submitted a Fiscal Note for SB325, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act directing the Department of Revenue to consider reductions from market value for physical depreciation, functional obsolescence, and economic obsolescence when using construction cost to approximate market value for property tax purposes; and providing an applicability date.

FISCAL IMPACT:

This proposal would have no revenue or expenditure impact. Under current law, the Department of Revenue considers reductions from market value for physical depreciation, functional obsolescence, and economic obsolescence when using construction cost to approximate market value.

David L Hunter DATE 2/16/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

George McCallum DATE 2-17-87
GEORGE McCALLUM, PRIMARY SPONSOR

Fiscal Note for SB325, as introduced.

SB 325

LC 1372/01

Senate BILL NO. 325

INTRODUCED BY McCallum

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF REVENUE TO CONSIDER REDUCTIONS FROM MARKET VALUE FOR PHYSICAL DEPRECIATION, FUNCTIONAL OBSOLESCENCE, AND ECONOMIC OBSOLESCENCE WHEN USING CONSTRUCTION COST TO APPROXIMATE MARKET VALUE FOR PROPERTY TAX PURPOSES; AMENDING SECTION 15-8-111, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

~~(b)~~(c) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds, including but not limited to aircraft and boats and all watercraft, is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in 15-6-134 through 15-6-140 and 15-6-145 through 15-6-149, except:

(a) the wholesale value for agricultural implements and machinery is the loan value as shown in the Official Guide, Tractor and Farm Equipment, published by the national farm and power equipment dealers association, St. Louis, Missouri; and

(b) for agricultural implements and machinery not listed in the official guide, the department shall prepare a supplemental manual where the values reflect the same depreciation as those found in the official guide.

(4) For purposes of taxation, assessed value is the

INTRODUCED BILL
SB 325

same as appraised value.

(5) The taxable value for all property in classes four through eleven and fifteen through nineteen is the percentage of market value established for each class of property in 15-6-134 through 15-6-141 and 15-6-145 through 15-6-149.

(6) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-143, under class thirteen, are assessed at 100% of the combined appraised value of the standing timber and grazing productivity of the land when valued as timberland.

(7) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from

ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(8) The taxable value of all property in 15-6-131 and classes two, three, and thirteen is the percentage of assessed value established in 15-6-131(2), 15-6-132, 15-6-133, and 15-6-143 for each class of property. (Subsections (3)(a) and (3)(b) applicable to tax years beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985. Subsection (6)(d) and references in (8) to class thirteen and 15-6-143 terminate January 1, 1991--sec. 10, Ch. 681, L. 1985.)"

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Applicability date. This act applies to taxable years beginning after December 31, 1987.

-End-

MONTANA STATE SENATE

TAXATION COMMITTEE

50TH LEGISLATURE

COMMITTEE MEMBERS: Senator George McCallum, Chairman
Senator Mike Halligan, V. Chairman
Senator Al Bishop
Senator Bob Brown
Senator Bruce Crippen
Senator Dorothy Eck
Senator Tom Hager
Senator Les Hirsch
Senator Ray Lybeck
Senator Joe Mazurek
Senator Ted Neuman
Senator Elmer Severson

STAFF ATTORNEY: Jim Lear

COMMITTEE SECRETARY: Aggie Hamilton

BOOK: 1 of 3

INCLUSIVE DATES: January

CHAIRMAN--SEN. GEORGE MCCALLUM
NORMAL SCHEDULE==> SITE: ROOM 413/415 DAYS: MON THRU FRI TIME: 8:00 A.M.

SECRETARY-AGGIE HAMILTON

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0325	2/11	3/04		DO PASS		3/6
MCCALLUM, GEORGE			ALLOW REDUCTION FROM MARKET VALUE FOR DEPRECIATION WHEN BASED ON CONST. COST			
SB0332	2/12	2/23	3/9			
HAGER, TOM			EXCLUDE SOCIAL SECURITY & RR RETIREMENT BENEFITS FROM STATE INCOME TAXATION			
SB0333	3/09	3/11				
CRIPPEN, BRUCE D.			"THE RETAIL SALES AND USE TAX ACT OF 1987"; IMPOSING A 5% RETAIL SALES TAX			
SB0335	2/13	2/23		PASS AS AMENDED		2/23
MAZUREK, JOSEPH P.			ALLOW SPEEDY DISTRICT COURT DETERMINATION OF PRELIMINARY ISSUE IN TAX CASE			
SB0337	2/14	2/25		DO PASS		2/25
MANNING, RICHARD E.			CLARIFY PROPERTY TAX EXEMPTION OF SURVIVING SPOUSE OF DISABLED VETERAN			
SB0340	2/14	2/25	3/3	PASS AS AMENDED		3/6
SEVERSON, ELMER D.			ELIMINATE TAX ON PRODUCER-HELD GRAIN IN STORAGE, LIVESTOCK, AND POULTRY			
SB0342	2/14	2/23		ADVERSE REPORT		3/6
MEYER, DARRYL			EXEMPT ARMED FORCES PENSION BENEFITS FROM ADJUSTED GROSS INCOME			
SB0346	2/14	2/21		TABLED		2/21
ABRAMS, HUBERT J.			REVISE REFUND PROCEDURE FOR GAS TAX -- DELINQUENT PURCHASERS OF BULK FUEL			
SB0377	2/19	3/05		DO PASS		3/5
MCCALLUM, GEORGE			ALLOW REFUND OF 3 CENTS A GALLON ON FUEL USED BY SCHOOL BUS CONTRACTORS			
SB0378	2/19	2/21		DO PASS		2/21
SMITH, ED B.			CLARIFYING STANDARD OF VALUE IN ASSESSING CERTAIN PROPERTY			
SB0381	2/19	3/03	3/6, 3/13			
SEVERSON, ELMER D.			PLACE A CAP ON REAL PROPERTY TAXES EQUIVALENT TO 1.5% OF MARKET VALUE			

Mr. Anderson said he does not believe they should be used for bonding at all.

Senator Eck asked Mr. Buckner if distributors are paid anything by the state for their cost of collecting.

Steve Buckner said they are given a discount on their taxes to apply the stamps to the cigarettes and that is all. As far as any regard for being tax collectors for the state of Montana, we do not receive anything at all.

Senator Eck asked if it covered the cost.

Steve Buckner said we pay the state up front and then go out and sell the merchandise. He said we lose money because we don't get any money back from the state for the taxes that we have lost.

Senator Brown closed.

CONSIDERATION OF SB 325: Senator McCallum, Senate District 26, presented this bill to the committee. A copy of his written statement is attached as Exhibit 10.

PROPONENTS: Dennis Burr, representing the Montana Taxpayers Association, gave testimony in support of this bill. He said the committee heard a bill by Senator Smith that changed the statute concerning market value. The current law says the Department can't accept a lower value and Senator Smith's bill inserted higher into the statute. Senator Smith said if they can't accept a lower value then a higher value should also apply. This brings up a point that we base our property tax assessment on market value but it is a very difficult thing for the Department to arrive at. He furnished the committee with an information sheet entitled "Marshall Valuation Service", attached as Exhibit 11, which explains the different approaches to value, explaining the market must be studied for depreciation and for factors causing obsolescence. An example would be a residential home with six bedrooms and one small bathroom in the house. They would never sell that home for the replacement cost because it is unfunctional. If someone buys an existing manufacturing plant and produces something different than intended when the building was originally built, that will have some functional obsolescence. Economic obsolescence is a residence that is owned by an individual and a sewage plant is built next to that home. Something that has happened to your property that is caused by an outside factor. If you were producing wood widgets and someone invented plastic widgets that lasted longer, your plant would experience economic obsolescence. The Department

recognizes functional and economic obsolescence. He furnished the committee with a page of the "IRS Valuation Guide", the Administrative Rules of Montana dealing with this and information from the Department of Revenue justify an assessment, attached as Exhibit 12. There is some disagreement between taxpayers and the Department whether the Department does consider functional and economic obsolescen on property. In general what the Department has been sayin is that functional obsolescence is probably most contained in the depreciation schedule by the Department. SB 325 is putting into statute the practices that the Department is currently using concerning functional and economic obsolesc The value of the bill is that we are putting more of a burden on the Department and off the taxpayers with this provision. If the law says that these matters will be considered then he thinks the taxpayers would have the right to know how the Department considers them. There is no intention for this bill to go beyond that. The Department and taxpayers would feel more comfortable with this in the law.

Ward Shanahan, attorney from Helena, representing the Tax Lawyers Committee, gave testimony in support of this bill. Industrial taxpayers have problems with respect to the whole question of the use of depreciation and obsolescence in Montana. If you can't show a comparable market value with plants in Montana you have to go out in the U.S. as a market place and you can't get the State Tax Appeal Board to establish market value of a plant in Montana as comparable to a plant in Indiana. When the Department approaches the plant using replacement cost method, they come up with a plant new cost and then apply depreciation schedules, then trending factors, inflation and the effect is to phase out the depreciation schedule. No consideration is given to obsolescence factors. He thinks this is a good bill because it puts into law what is supposed to be the practice. It gives the taxpayer the right to question this and reduces the Department of Revenue's right to decide whether they are using this factor or not in any particular case. The Department sometimes would consider these things and sometimes would not.

George Bennett, Helena, representing the Northern Border Pipeline and a member of the senior tax group involved in a number of disputes involving functional and economic obsolescence, gave testimony in support of this bill. He endorses the comments made by the previous proponents. This bill will provide taxpayers to use functional and economic obsolescence when the Department of Revenue refuses to use those options. He gave several examples where this could be of assistance throughout the state.

Don Allen, representing the Montana Wood Products Assn., gave testimony in support of this bill. He said Mr. Burr's comments probably cover the overall picture of the concerns of the members of the Wood Products Assn. To put the statute into law and have it there for a basis for consideration certainly will be a good move. Over the next decade his industry foresees changes with competition with Canada and other parts of the United States. They have a great concern about being able to remain competitive in the coming years. This bill is a good move and shows some awareness to those that are planning ahead for future competitive building and change in the industry.

Stan Kaleczyc, attorney from Helena representing the Columbia Falls Aluminum Company, gave testimony in support of this bill. The Aluminum Plant has been involved in a tax dispute with the Department of Revenue which illustrates the use of economic and functional obsolescence. The Department of Revenue, using the Marshall Swift Manual, appraised the plant at $147 million for 1986. An independent appraiser, hired by the plant, came up with $30 million for the facilities. This bill will qualify the use of economic and functional obsolescence. Hopefully, this will benefit all taxpayers, including a large industry competing in a worldwide market.

Robert N. Helding, representing the Montana Association of Realtors, gave testimony in support of this bill. He thinks it is a question of equity and fairness and there is nothing wrong with making it part of the law of the Department. It allows the taxpayer and tax collector to start from a common ground.

OPPONENTS: None.

Greg Groepper, Property Assessment Division, Department of Revenue, gave technical comments concerning this bill. He said we do these things right now. In order to do the kind of assessing that some of the proponents of this bill talked about, we will probably need more staff to do this in the manner they envision. We have a classification system that has 20 some classes of property. We can do a better job of economic obsolescence with more staff but if we don't do it right, the entire class of property will be considered under economic obsolescence.

QUESTIONS FROM THE COMMITTEE: Senator Lybeck asked Greg Groepper what the result of the bill in the 1985 session was that granted some tax advantages to the farmers in the Yellowstone Valley on some sugar beet harvesting equipment. They no longer had a plant to sell to and

therefore their machines were of no value to the owner.

Greg Groepper said the bill that was passed in the 1985 session said that property would be exempt, sugar beet harvesting equipment would be exempt if they had two consecutive years with no contracts for sugar. The farmers did get a contract and the bill did not take effect.

Senator Eck asked Ward Shanahan if the proposal in this bill is sufficient in addressing personal property owned by industrial plants.

Ward Shanahan said this is a matter of tax procedure. These principles are important regardless of what you do to the rate of taxation on machinery.

Senator Hager said during the 1976 tax reappraisal situation our company had a problem in that we were assessed on a building based on the board by board construction method and applying what the cost to put the same building up in 1976 would be. Our company tore the building down because if we left it standing it would have cost $450 a year in taxes. He is wondering if this bill will help that situation.

Greg Groepper said he wasn't around during that appraisal cycle so he could not tell what method was used. The underlying principle is if the product doesn't generate enough return to pay the taxes, then the wise owner will end up tearing the building down or sell it to somebody else who can generate a return on it. This will not make a difference here. If the question is will it get down to the threshold where it would be exempt, no. We might lower the value and we try to do that now. We have tried to give some consideration for economic obsolescence in the timber industry where they can qualify. We gave it to some old field equipment and the State Tax Appeal Board awarded it to a refinery. We want to make sure we can guarantee it to the people that truly deserve it and that it does not go to the people in the same class that do not deserve it.

Senator Halligan said when you use Marshall Valuation you determine the valuation, then use depreciation, build back in inflation factor and there is a CPI adjustment for the valuation. He asked Greg Groepper where economic obsolescence was considered.

Greg Groepper said we are talking about two different things. There is one distinction for buildings and you do not find a lot of economic obsolescence. Where you find economic obsolescence is on the machinery and equip-

ment. There is a different set of depreciation and trending tables for a particular type of industry. Some industries the equipment wears out faster. After we go through the process of trending and depreciation then we look for economic obsolescence.

Senator McCallum closed.

CONSIDERATION OF SB 387: Senator Eck, Senate District 40, presented this bill to the committee. She said this bill doesn't really provide any kind of long term revenue, even though it provides quite a bit of revenue that is needed to fund the state government. It is one time money, as was the money that we took during the special session. This bill provides that employers who withhold more than $12,000 a year in state withholding to make their payments and reports to the state at the same time that they make their federal payments and reports. In extending this to 1988, the Fiscal Analyst's Office estimates this would yield $18 million. This bill also applies to collecting coal, oil and gas severance tax on a monthly basis rather than a quarterly basis. She has been told that neighboring states use a monthly method of collecting taxes and she does not think this is out of line. This bill is a reasonable way for the state to collect money. It will cause the Department a little bit more hassle but over the long term it would be made up for in the fact that they would have a more regular flow of income into the state. The reason this provides this one time revenue, is you get 14 months of revenue in a 12 month period.

PROPONENTS: None.

OPPONENTS: James D. Mockler, Executive Director, Montana Coal Council, gave testimony in opposition to this bill. He said while this is a one shot thing to the general fund, it will be a long term cost to everyone affected by it. We often do not even collect taxes on a monthly basis. Coal operators would have to pay that out of their pockets. On page 7 there is a retroactive clause in the payment of our taxes back to 1985. He would assume that since they didn't pay their taxes on a monthly basis, they are now subject to penalties the same as if you don't pay on time. On page 4 the withholding is down to $12,000. That would include almost any business employing more than 3-4 people. This would be a tremendous burden on them. This is an extremely costly bill to the industry and the small employers.

Carol Swinney, representing Cenex, gave testimony in opposition to this bill. A copy of her statement is attached as Exhibit 13.

ROLL CALL

TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3-4-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

SENATE Taxation COMMITTEE

BILL SB312, 325, 387 VISITORS' REGISTER DATE 3-

Please note bill

NAME	REPRESENTING	BILL #	(check SUPPORT
Tim Rollins	ASARCO, INC	SB 387	
Kay Foster	Billings Chamber	SB 312	
Eric Olson	MEA	SB312	✓
BOB HELDING	MT. ASSOC. OF REALTORS	SB325	✓
BILL KIRKPATRICK	CHAMPION INT'L	SB 325	✓
J. L. HALL	EXXON CO. USA	SB 387	
Jerry Munson	MFT	SB 312	✓
Mary A Langley	MONTANA MINING ASSN	SB325	✓
Mary A Langley	" " "	SB387	
Don Allen	MT. Wood Products Assn.	SB 325	✓
GEORGE OCHENSKI	MT. ENV. INF. CNTR	SB387	✓
Jane Ebzery	NERCO Coal Corp	SB325	✓
Bruce W. Moore	MSBA	SB 312	✓
Jim Mockler	MT Coal Council	SB 587	
Jim Mockler	"	325	✓
T. M. Rollins	ASARCO INC	SB 325	✓
STAN KALTZYC	COLUMBIA FALLS ALUMINUM	325	✓
Keith Anderson	Montana Taxpayers Assoc.	325	✓
Janelle Fallan	MT Petroleum	387	
John Alke	MDU	387	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

SENATE BILL 325

ALTHOUGH MARKET VALUE IS THE STANDARD FOR PROPERTY ASSESSMENTS IN MONTANA, THE MONTANA DEPARTMENT OF REVENUE USUALLY USES CONSTRUCTION COSTS LESS DEPRECIATION AS THE BASIS FOR ASSESSMENTS. THE DEPARTMENT HAS ADOPTED DEPRECIATION SCHEDULES THAT ARE USED TO ADJUST 1982 CONSTRUCTION COSTS TO THE AGE OF THE PROPERTY BEING ASSESSED.

THERE ARE THREE COMPONENTS OF DEPRECIATION: 1) PHYSICAL DETERIORATION, 2) FUNCTIONAL OBSOLESCENCE AND 3) ECONOMIC OBSOLESCENCE. WHILE PHYSICAL DETERIORATION MAY BE ADEQUATELY ACCOUNTED FOR WITH DEPRECIATION TABLES, FUNCTIONAL AND ECONOMIC OBSOLESCENCE CAUSE A LOSS IN VALUE THAT CANNOT BE ANTICIPATED BY PHYSICAL DEPRECIATION TABLES.

FUNCTIONAL DEPRECIATION MAY BE CAUSED BY A POORLY DESIGNED PRODUCTION FACILITY OR BY ADAPTING AN EXISTING PLANT TO PRODUCE SOMETHING NOT ORIGINALLY INTENDED. IN EITHER CASE, THE MARKET VALUE OF THE FACILITY WILL BE LOWER THAN ITS REPLACEMENT COST LESS PHYSICAL DEPRECIATION. A RESIDENCE WITH 5 BEDROOMS AND ONLY ONE BATHROOM IS AN EXAMPLE OF FUNCTIONAL OBSOLESCENCE. THE HOME WILL NOT SELL FOR ITS REPLACEMENT COST LESS PHYSICAL DEPRECIATION.

ECONOMIC OBSOLESCENCE IS A LOSS IN VALUE DUE TO FACTORS FROM OUTSIDE THE PROPERTY. A CAFE IN A SMALL TOWN WHICH HAS BEEN BY-PASSED BY AN INTERSTATE HIGHWAY WILL EXPERIENCE ECONOMIC OBSOLESCENCE AS A PORTION OF ITS BUSINESS WILL NOT PASS THE CAFE AGAIN. NEW TECHNOLOGY WHICH REPLACES A PRODUCT OR PRODUCTION METHOD WILL CAUSE ECONOMIC OBSOLESCENCE. THE FACILITY WILL NO LONGER SELL FOR REPLACEMENT COST LESS DEPRECIATION.

SENATE TAXATION
EXHIBIT NO. 10
DATE 3-4-87
BILL NO. SB325

THE DEPARTMENT OF REVENUE RECOGNIZES THAT FUNCTIONAL A ECONOMIC OBSOLESCENCE ARE PART OF DEPRECIATION AND THE DEPARTMEI MAINTAINS THAT THEY ARE ALLOWED WHERE APPLICABLE. SENATE BILL 3: MAKES IT EXPLICIT THAT OBSOLESCENCE AS WELL AS PHYSICAL DEPRECIATI(MUST BE CONSIDERED IN ESTIMATING MARKET VALUE BY THE COST APPROACI IT IS NOT SUFFICIENT TO SAY THAT OBSOLESCENCE IS ACCOUNTED FOR IN TI DEPRECIATION SCHEDULES. THE DEPARTMENT MUST ACCOUNT FOR IT SEPARATEL OR SHOW HOW IT IS INCLUDED IN THE DEPRECIATION TABLES. SENATE BIL 325 WILL ALLOW THE PROPERTY OWNER TO RECEIVE AN EXPLANATION OF TH TREATMENT OF THESE ITEMS, SOMETHING SOME PROPERTY OWNERS FEEL HAS BEE NEGLECTED IN THE PAST.

2/23/87

SENATE TAXATION
EXHIBIT NO. 10
DATE 3-4-87

CONCEPTS OF VALUE

The Marshall Valuation Service is designed primarily as a guide to the determination of Replacement Cost as an approach to value. In addition, typical lives of structures, a guide to capitalization of income, the Marshall and Swift building and equipment cost indices, and several other guidelines to value are included.

In establishing concepts of value, the first criterion of the reliability of any concept is its supportability. It should allow the estimate of value to be based on logical evidence and actual fact which can be supported by documentation. All items considered as indicators of value must have a firm foundation in fact. Therefore, replacement cost figures used in valuation should be established by the action and reaction of the market and should reflect all factors that go into that market.

Marshall and Swift costs are based on actual end costs of structures to the user. Therefore, they reflect labor efficiency, cost of money, fees, and many other items which are not included in the basic costs of labor and materials. They are designed to give accurate present day Replacement Costs which will form a sound foundation for the cost approach to value.

SENATE TAXATION
EXHIBIT NO. 11
DATE 3-4-87
BILL NO SB 335 Dennis Burr

APPROACHES TO VALUE

In appraisal literature and in appraisal reports, three approaches to value are nearly always mentioned:

COST APPROACH MARKET APPROACH INCOME APPROACH

Actually, in appraising for market value, the Market Approach is primary no matter which other approach is used. Because of this, all data in the Marshall Valuation Service is being continuously updated with actual costs of construction.

If the Income Approach is used, the market must be studied to determine fair yield rates, fair rents and expenses, and remaining life expectancy, so this approach is actually subsidiary to the Market Approach.

If the Cost Approach is used, the market should be studied to determine actual up-to-date costs of structures, which is why the Marshall Valuation Service is based on end costs of buildings to the buyer or owner. Also, in the Cost Approach, the market must be studied for depreciation and for factors causing obsolescence. The Marshall Valuation Service is also used in adjusting sales prices for market comparisons.

Whichever approach is used, the Marshall Valuation Service, used in accordance with the accompanying instructions, will give a sound basis derived from factual cost data obtained from the construction market.

MARKET VALUE

By appraisal teaching, by court decisions, by insurance contract, and by statutory law, the basis of all valuation is becoming more and more to be Market Value.

An ideal definition might be that Market Value would be the average selling price of an infinite number of identical properties sold at the same time in a freely competitive market, but this is an hypothesis which can never exist and therefore the following definition is more desirable.

Fair Market Value and Market Value are synonymous and are defined as the highest price estimated in terms of money which a property will bring if exposed for sale on the open market with a reasonable time to find a purchaser who buys with full knowledge of all the uses and purposes to which it is adapted and for which it is capable of being used.

ELEMENTS OF MARKET VALUE

1. A buyer and a seller, both solvent and willing to effect an exchange of property for money, both having a reasonable knowledge of the uses and possibilities of the property.
2. Money, according to many court decisions, does not necessarily mean cash but may be the equivalent under financing which is conventional for the time, place, and type of property.
3. Reasonable knowledge of the possible uses of the property means knowledge of circumstances, facts, and conditions which informed people who deal in that type of property would generally know.
4. A freely competitive market where buyers and sellers may determine and consider all elements of value and where substitute properties compete for buyers in the market. Neither buyer nor seller should be under any compulsion to buy or sell.
5. Market value is value in exchange to persons generally and based on the most profitable use to persons generally. It does not assume inferior or superior management. This general person who might buy must exist or reasonably be expected to exist in the future, either among the hundreds for whose money a small tract home might compete or the one corporate person who might consider buying a specialized plant. It must not be a mythical or hypothetical person.

3. Capitalization of income.

Each one of these approaches - cost, market and income - warrants some discussion. It should be recognized that the usual appraisal will reflect a use of at least a combination of the latter two methods rather than a strict adherence to one method only.

Reproduction Cost Less Observed Depreciation

This approach is the one most difficult to use, the one where there is the most risk of error and, therefore, the one that is the least reliable. Even if the approach is properly used, it generally tends to set the upper limit of value, particularly in periods of rising costs, since it is reasonable to assume that an informed buyer would not pay more for the improvements than it would cost to reproduce them. A serious defect of this method as a means to evaluate real estate for tax purposes is that it does not produce a result which is compatible with the fair market value definition as intended by the tax laws. It is by far the least valid method in this respect.

The approach requires, fundamentally, an estimate of the cost of replacing a structure (including the cost of the non-productive investment of funds during the construction period), an estimate of the depreciation and obsolescence that has taken place in the existing structure, and an appraisal of the land involved. When estimating replacement costs, appraisers employ engineering manuals to obtain cost data, but it happens, particularly where there are wide differences of opinion between appraisers, that engineers, architects, contractors, and others are required to properly develop costs. It is obvious that this approach requires great skill on the part of the appraiser and that the cost and depreciation estimates required in the approach are bound to lead to controversy.

Reproduction cost less observed depreciation is a valuable tool for the appraising of hospitals, schools, public buildings and other properties owned by nonprofit organizations since there is no market for them nor is there productive income from them in the economic sense. Its use is extremely limited for ordinary Federal tax valuation purposes.

Comparable Sales

An arm's length sale of the property in question on the valuation date would be determinative of its fair market value, and would also, with few exceptions, eliminate the need to arrive at a value by other means. Lacking such circumstances, the next best indication of value would be the price for which a reasonably comparable piece of property was sold. It is extremely unlikely, if not impossible, that an exactly comparable property can be found, it will suffice to consider sales of similar property, making adjustments for such differences as exist between the comparatives and the property to be valued.

SENATE TAXATION
EXHIBIT NO. 12
DATE 3-4-87
BILL NO. SB325
Dennis Burr

into something possessing a new nature or name and adopted to a new use.

(3) All property which has been certified by the department of health to control air water pollution shall be placed in Class 5.

(4) All property which has been included in a new industry classification shall be placed in Class 5. (History: Sec. 15-1-201 MCA; IMP, Sec. 15-8-111 MCA; NEW MAR p. 1270, Eff. 7/1/82.)

42.22.1306 VALUATION OF INDUSTRIAL PROPERTY OTHER THAN LAND All property other than land or improvements to land shall be valued by trending the original installed cost to a current replacement cost, then depreciating on an age/life basis to compensate for ordinary physical deterioration and/or functional obsolescence. (History: Sec. 15-1-201 MCA; IMP Sec. 15-8-111 MCA; NEW MAR p. 1270, Eff. 7/1/82.)

42.22.1307 TREND FACTORS The trending factors for all property other than land or improvements to land shall be published annually by the department. These factors will be taken from the Marshall Valuation Service except in those instances when the taxpayer can demonstrate to the department that another source of information will provide a more reliable indication of replacement/reproduction cost and thus the resulting "market value" for the industry as a whole. (History: Sec. 15-1-201 MCA, IMP Sec. 15-8-111 MCA; NEW; MAR p. 1270, Eff. 7/1/82.)

42.22.1308 DEPRECIATION SCHEDULES Depreciation schedules for all property, other than land or improvements to land, shall be published annually by the department. These depreciation schedules will be an expanded version of the depreciation schedule provided by the Marshall Valuation Service. These depreciation rates will normally compensate for the loss in value due to ordinary wear and tear, offset by reasonable maintenance, and ordinary functional obsolescense due to technological changes within the process during the life expectancy period. (History: Sec. 15-1-201 MCA; IMP Sec. 15-8-111 MCA; NEW MAR p. 1270, Eff. 7/1/82.)

42.22.1309 ECONOMIC OBSOLESCENCE Extraordinary functional and/or economic obsolescence are treated on a case by case basis. (History: Sec. 15-1-201 MCA; IMP Sec. 15-8-111 MCA; NEW, MAR p. 1270, Eff. 7/1/82.)

42.22.1310 ISSUANCE OF DEPRECIATION AND TRENDING SCHEDULES The schedules referred to in Rules 42.22.1307 and 42.22.1308 shall be supplied to its local agent by the 15th day of January of each year. A taxpayer may request such

SENATE TAXATION
EXHIBIT NO. 12
DATE 3-4-87
BILL NO. S.B. 325

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SENATE TAXATION
EXHIBIT NO. 12
DATE 3-4-87
BILL NO. S.B. 32

NAME: George A. Gierke DATE: 3-4-87

ADDRESS: 215 N. 7Th. ST. Miles City, Mont 59301

PHONE: 232-1563

REPRESENTING WHOM? Gierke's Distributing Co

APPEARING ON WHICH PROPOSAL: SB 312

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENT: Please oppose SB 312

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE TAXATION
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3. Acquire the original installed cost (direct and indirect) for the subject equipment.

4. Apply the appropriate trend factor to the original installed cost to determine replacement cost new (RCN).

5. Depreciate the RCN on the basis of age to arrive at sound value.

Example:

Industry - Sawmill
Economic life - 10 years
1986 Table - Table 6 (Subsection 1)

Case	I	II
Equipment - Motor		
Original Installed Cost	$ 200	$ 100
Year Installed	1980	1972

Case I		Case II	
Cost	$ 200	Cost	$ 100
x Trend	1.227	x Trend	1.596*
RCN	245	RCN	245
x % Good	.49	x % Good	.20
Sound Value	$ 120	Sound Value	$ 32

* The trending factor is applied only to the last year of the economic life. Although the equipment is 15 years old, it is trended by the 10th year trend.

AUTH: 15-1-201 MCA; IMP: 15-6-138 and 15-8-111 MCA.

3. A public hearing was held on November 20, 1986, to consider the proposed adoption of these rules. Several persons appeared at the hearing to offer oral testimony and written comments were received from one taxpayer. Gregg Groepper and Randolph Wilke, Property Assessment Division, appeared on behalf of the Department.

Pfizer, Inc., through its attorney, submitted comment concerning the adoption of the rules. The first comment relates to a lack of foundation for the development of trend factors. The foundation for the rule is the Marshall Valuation Service. In addition, language has been added to the rule explaining how the Marshall Valuation Service data is used to develop the trending and depreciation schedules. The rule relating to industrial machinery and equipment trend factors is being adopted so that taxpayers will have direct knowledge of the trend factors which are being applied to their industrial machinery and equipment for ad valorem tax purposes. The rule will operate in conjunction with ARM 42.22.1307. That rule reflects that the trend factors are developed annually from the Marshall Valuation Service. Accordingly, there is a foundation for the development of the trend factors set forth in the new rule.

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The second comment offered on behalf of Pfizer is that the Department of Revenue has denied taxpayers due process of law in adopting these rules since the taxpayers have no ability to know the foundation for the rules, the methods of their compilation, or the persons who compiled them. The Department of Revenue asserts that the foundation for the development of the rules has been set forth above. A rule is not legally defective because the methodology by which it was compiled is not set forth within the rule.

The third comment offered on behalf of Pfizer was to the effect that the rules are incomplete because they do not define the concept of depreciation. The Department has previously defined the concept of depreciation, insofar as it affects the valuation of industrial property, at ARM 42.22.1308.

Flying J Inc., through its attorney, submitted written comments pertaining to the adoption of the rules. Flying J. Inc. raised five points for the Department's consideration. First, it suggests that the use of trend factors is discriminatory because they fail to take into account the operating or nonoperating character of the property being valued. This comment is an argument for economic obsolescence. The Department of Revenue always considers economic obsolescence when it values industrial machinery and equipment. Consequently, the comment is not well taken.

Second, Flying J. Inc. suggested that the trending and depreciation tables do not adequately account for technical and functional obsolescence in industrial machinery and equipment. This comment is in error. The Department of Revenue's trending and depreciation schedules are premised upon an economic life expectancy. The economic life expectancy of industrial machinery and equipment will account for all forms of physical and functional obsolescence of the property being valued.

Third, Flying J. suggested that the proposed trending tables and depreciation schedules do not reflect a true life expectancy of industrial machinery and equipment. The comment is incorrect to the extent that the commentator apparently believed that the life expectancy starts again following a sale. This is not the case. The thrust of the rest of the comment is that whenever a taxpayer acquires industrial machinery and equipment, the Department of Revenue commences a new economic life expectancy period for that machinery and equipment. The commentator suggested that at the date of acquisition, the property is typically "worn out." The Department's experience in this area leads it to believe that taxpayers acquire capital assets because they have economic utility to the taxpayers. Industrial machinery and equipment is maintained in such a fashion so that it will continue to have economic utility and to produce the industrial product for which it was designed.

Fourth, Flying J. suggests that the trend factors and depreciation schedules do not reflect market value as required by Montana law. The Department of Revenue has relied on the

SENATE TAXATION
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replacement cost method, including trending and depreci
based on an economic life expectancy, for a number of ye
That methodology has been challenged several times by taxpa
in the State of Montana. The Department's methodology has
sustained by the State Tax Appeal Board in contested case
ceedings. The Department believes its methodology does y
market value of property.

Fifth, Flying J. suggested that the adoption of the r
should be prospective in nature and not retroactive. The
tax assessments for industrial machinery and equipment have
prepared. They were based upon the same cost replacement me
odology, with trending and depreciation, as they had been
many years. Consequently, taxpayers in Montana had an oppor
nity to challenge those assessments if they desired to do
The Department will continue to use its cost replacement meth
ology, with trending and depreciation, because it yields mar
value and because it promotes equalization within the same
class.

4. The authority for the rules is 15-1-201, MCA, and
rules implement 15-6-138 and 15-8-111, MCA.

JOHN D. LaFAVER, Director
Department of Revenue

Certified to Secretary of State 12/15/86

SENATE TAXATION
EXHIBIT NO. 12
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Senator Hirsch thinks this bill should move through the process.

The motion carried with Senators Hirsch, Neuman, Cripp and McCallum opposed.

DISPOSITION OF SB 342: Senator Mazurek made a motion SB 342 DO NOT PASS. The motion carried.

FURTHER CONSIDERATION OF SB 381: Senator Severson made a motion to adopt the amendment, attached as Exhibit 4, which would insure that the bill covers class 4 and class 12 property, which are buildings, land under the buildings, and all of the property that is covered by a 3.86 taxable percentage.

The motion carried.

Senator Severson made a motion that SB 381 DO PASS AS AMENDED. He said the fiscal note was in error as it covered other classes of property and got into some 12% classes. That is where the minus figures come from. As this bill stands, it really doesn't cap a lot of people. He believes this bill is defensive against I-27.

Senator Eck asked Dan Bucks how this would effect counti like Deer Lodge or Silver Bow, where the mill levies are high.

Dan Bucks said the amendment limits this to class 4 and class 12 properties. He does not have the information in front of him in terms of the effect, county by county. It would be less with the amendments on the bill.

Senator Brown suggested that a bill of this magnitude should have a revised fiscal note.

Mike Walsh said he would get that information to the committee as soon as possible.

DISPOSITION OF SB 90: Senator Mazurek made a motion that SB 90 BE TABLED. The motion carried.

DISPOSITION OF SB 87: Senator Mazurek made a motion that SB 87 BE TABLED. The motion carried.

DISPOSITION OF SB 325: Senator Crippen made a motion tha SB 325 DO PASS. The motion carried.

DISPOSITION OF SB 30: Senator Hager made a motion that SB 30 BE TABLED. The motion carried.

ROLL CALL

TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3-6

NAME	PRESENT	ABSENT	EXCUSE
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 6, 19 87

MR. PRESIDENT

We, your committee on SENATE TAXATION

having had under consideration SENATE BILL No. 325

first reading copy (white color)

ALLOW REDUCTION FROM MARKET VALUE FOR DEPRECIATION WHEN BASED ON CONST. COST

Respectfully report as follows: That SENATE BILL No. 325

DO PASS

~~BE NEI PASS~~

SENATOR GEORGE McCALLUM, Chairman.

STATUS SHEET

50th LEGISLATIVE SESSION

TAXATION COMMITTEE

SENATE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
272	3/3/87	3/25/87								4/8/87	
297	2/24/87	3/18/87							4/6/87		
325	3/13/87	3/30/87						4/6/87			
335	3/3/87	3/26/87						4/3/87			
337	3/9/87	3/27/87								4/6/87	
340	3/13/87	3/30/87								4/7/87	
377	3/12/87	3/26/87							4/7/87		
378	3/3/87	3/26/87	4/7/87	tabled							
383	3/17/87	4/03/87								4/8/87	
389	3/13/87	3/30/87								4/7/87	
390	3/17/87	4/03/87								4/10/87	

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

DISPOSITION OF HOUSE BILL NO. 883: Rep. Williams made a motion that HB 883 be TABLED. The motion CARRIED unanimously.

CONSIDERATION OF SENATE BILL NO. 325: Sen. George McCallum, Senate District #26, said the bill would require DOR to set property appraisals at market value, and to consider things that cause market value to be less than replacement cost. He advised that the fiscal note indicates no additional cost to the Department.

PROPONENTS OF SENATE BILL NO. 325: Dennis Burr, Montana Taxpayers Association, read from a page in the Internal Revenue Service Valuation Guide on replacement costs (Exhibits #6 and #6a). He told the Committee the bill would require that DOR look at functional and/or economic obsolescence, which can also affect value.

Don Allen, Montana Wood Products Association, told the Committee the comments made by Sen. McCallum and Dennis Burr outlined the reason for the bill, and added his support.

Robert Helding, Montana Association of Realtors, stated his support of the bill (Exhibit #7).

Stuart Doggett, DOR, stated his support of the bill.

TECHNICAL COMMENTS ON SENATE BILL NO. 325: Greg Groepper, DOR, requested a statement of intent to give the Department direction in making adjustments.

OPPONENTS OF SENATE BILL NO. 325: There were no opponents of SB 325.

QUESTIONS ON SENATE BILL NO. 325: There were no questions on SB 325.

CLOSING ON SENATE BILL NO. 325: Sen. McCallum said he had no objection to a statement of intent.

CONSIDERATION OF SENATE BILL NO. 389: Sen. Ray Lybeck, Senate District #4, sponsor of SB 389, said the bill would provide for a 255 percent increase in the annual license tax fee for vehicles powered by liquified petroleum gas, because it is only about 75 percent as efficient as other fuels. He commented that a 30 percent reduction was amenable to the industry, and that the Senate amended the bill to leave school buses running on liquified petroleum gas at $60.

PROPONENTS OF SENATE BILL NO. 389: Ronna Alexander, Montana Petroleum Markets, stated her support of the bill.

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 30, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	✓		
REP. ASAY	✓		
REP. ELLISON	✓		
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP	✓		
REP. HARRINGTON	✓		
REP. HOFFMAN	✓		
REP. KEENAN	✓		
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE	✓		
REP. WILLIAMS	✓		

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J. Burr
Nit Taxp
SB325
Ex 6
3-30-87

#6
3-30-87
SB 325

SENATE BILL 325

ALTHOUGH MARKET VALUE IS THE STANDARD FOR PROPERTY ASSESSMENTS IN MONTANA, THE MONTANA DEPARTMENT OF REVENUE USUALLY USES CONSTRUCTION COSTS LESS DEPRECIATION AS THE BASIS FOR ASSESSMENTS. THE DEPARTMENT HAS ADOPTED DEPRECIATION SCHEDULES THAT ARE USED TO ADJUST 1982 CONSTRUCTION COSTS TO THE AGE OF THE PROPERTY BEING ASSESSED.

THERE ARE THREE COMPONENTS OF DEPRECIATION: 1) PHYSICAL DETERIORATION, 2) FUNCTIONAL OBSOLESCENCE AND 3) ECONOMIC OBSOLESCENCE. WHILE PHYSICAL DETERIORATION MAY BE ADEQUATELY ACCOUNTED FOR WITH DEPRECIATION TABLES, FUNCTIONAL AND ECONOMIC OBSOLESCENCE CAUSE A LOSS IN VALUE THAT CANNOT BE ANTICIPATED BY PHYSICAL DEPRECIATION TABLES.

FUNCTIONAL DEPRECIATION MAY BE CAUSED BY A POORLY DESIGNED PRODUCTION FACILITY OR BY ADAPTING AN EXISTING PLANT TO PRODUCE SOMETHING NOT ORIGINALLY INTENDED. IN EITHER CASE, THE MARKET VALUE OF THE FACILITY WILL BE LOWER THAN ITS REPLACEMENT COST LESS PHYSICAL DEPRECIATION. A RESIDENCE WITH 5 BEDROOMS AND ONLY ONE BATHROOM IS AN EXAMPLE OF FUNCTIONAL OBSOLESCENCE. THE HOME WILL NOT SELL FOR ITS REPLACEMENT COST LESS PHYSICAL DEPRECIATION.

ECONOMIC OBSOLESCENCE IS A LOSS IN VALUE DUE TO FACTORS FROM OUTSIDE THE PROPERTY. A CAFE IN A SMALL TOWN WHICH HAS BEEN BY-PASSED BY AN INTERSTATE HIGHWAY WILL EXPERIENCE ECONOMIC OBSOLESCENCE AS A PORTION OF ITS BUSINESS WILL NOT PASS THE CAFE AGAIN. NEW TECHNOLOGY WHICH REPLACES A PRODUCT OR PRODUCTION METHOD WILL CAUSE ECONOMIC OBSOLESCENCE. THE FACILITY WILL NO LONGER SELL FOR REPLACEMENT COST LESS DEPRECIATION.

THE DEPARTMENT OF REVENUE RECOGNIZES THAT FUNCTIONAL AND ECONOMIC OBSOLESCENCE ARE PART OF DEPRECIATION AND THE DEPARTMENT MAINTAINS THAT THEY ARE ALLOWED WHERE APPLICABLE. SENATE BILL 325 MAKES IT EXPLICIT THAT OBSOLESCENCE AS WELL AS PHYSICAL DEPRECIATION MUST BE CONSIDERED IN ESTIMATING MARKET VALUE BY THE COST APPROACH. IT IS NOT SUFFICIENT TO SAY THAT OBSOLESCENCE IS ACCOUNTED FOR IN THE DEPRECIATION SCHEDULES. THE DEPARTMENT MUST ACCOUNT FOR IT SEPARATELY OR SHOW HOW IT IS INCLUDED IN THE DEPRECIATION TABLES. SENATE BILL 325 WILL ALLOW THE PROPERTY OWNER TO RECEIVE AN EXPLANATION OF THE TREATMENT OF THESE ITEMS, SOMETHING SOME PROPERTY OWNERS FEEL HAS BEEN NEGLECTED IN THE PAST.

2/23/87

Ex 6a
3-30-87
D. Burr

6a
3-30-87
SB 325

SENATE BILL 325

MONTANA TAX LAWS REQUIRE THE DEPARTMENT OF REVENUE TO ASSESS PROPERTY AT MARKET VALUE. THAT SECTION IS FOUND ON PAGE ONE, LINE 14 OF SENATE BILL 325. IN MAKING THEIR APPRAISALS, THE DEPARTMENT OF REVENUE USUALLY USES REPLACEMENT COSTS OR CONSTRUCTION COSTS AS A MEANS OF ESTIMATING MARKET VALUE. SENATE BILL 325 REQUIRES THE DEPARTMENT TO FULLY CONSIDER THINGS THAT CAUSE MARKET VALUE TO BE LESS THAN REPLACEMENT COST. THESE FACTORS, LISTED ON THE BOTTOM OF PAGE ONE ARE PHYSICAL DEPRECIATION, FUNCTIONAL OBSOLESCENCE AND ECONOMIC OBSOLESCENCE. THESE ARE THREE THINGS THAT WILL CAUSE MARKET VALUE TO BE LESS THAN REPLACEMENT COST AND THEY MUST BE CONSIDERED IN APPRAISING RESIDENTIAL AND COMMERCIAL PROPERTY.

THE FISCAL NOTE SAYS THERE IS NO COST TO THIS BILL BECAUSE THE DEPARTMENT OF REVENUE ALREADY CONSIDERS DEPRECIATION AND OBSOLESCENCE. THE TERMS ARE DESCRIBED IN THEIR RULES AND REGULATIONS.

THIS BILL RECOGNIZES THE DIFFERENCE BETWEEN MARKET VALUE AND REPLACEMENT COST AND REQUIRES THE DEPARTMENT TO CONSIDER ADJUSTMENTS WHERE THEY ARE NEEDED. THE BILL PLACES IN LAW WHAT ALREADY EXISTS IN THE DEPARTMENTS RULES.

I ASK FOR YOUR SUPPORT ON SENATE BILL 325.

VISITORS' REGISTER

House Taxation COMMITTEE

BILL NO. SB 325 DATE March 30, 1987

SPONSOR McCallum

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dennis Burr	Helena	✓	
Don Allen	MT. Wood Products Assn	✓	
BOB HELDING	MT. ASSOC. REALTORS	✓	
Stuart Doggett	Mt. Chamber of Commerce	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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the auspices of the PSC, if it were nonprofit. Rep. Harrington replied he was uncertain.

Rep. Sands asked if this were a beneficial use tax before. Chairman Ramirez replied that state-owned property is exempt from property tax, but if the state lets others use the land, it is taxed.

Rep. Sands asked what the new language prior to "except" does. Rep. Raney replied that two existing railroads are not taxed, Central Montana Railroad and Raurus, and said he believes the bill is in order.

Chairman Ramirez said he believe a subcommittee should be appointed if the Committee wanted to continue to discuss the bill at length. Rep. Sands commented he wasn't present for the hearing and felt he needed to address the bill.

Chairman Ramirez appointed Reps. Asay, Sands, and Raney to study the bill further and to report back to the Committee.

Rep. Gilbert advised he agreed with Rep. Sands.

DISPOSITION OF SENATE BILL NO. 297: Rep. Harp made a motion that SB 297 BE CONCURRED IN.

Chairman Ramirez advised the Committee his notes from the hearing indicate there will be some general fund expenditures at the state level, and that it will be difficult to meet requirements in lines 17-19, on page 1.

Rep. Gilbert proposed inserting "within reason" between "shall" and "may".

Rep. Sands made a motion to strike lines 16-19 on page 1 of the bill, because it would be extremely difficult to enforce. The motion CARRIED, with all members voting aye, except Reps. Ream and Patterson, who voted no.

Rep. Gilbert commented that all of the counties probably won't participate, and that the costs indicated in the fiscal note may be high.

Rep. Sands made a motion that SB 297 BE CONCURRED IN AS AMENDED. The motion FAILED 6-9 (roll call vote attached). The vote was reversed to BE NOT CONCURRED IN AS AMENDED.

DISPOSITION OF SENATE BILL NO. 325: Chairman Ramirez advised that Greg Groepper, DOR, requested a statement of intent , not to make changes in the law, but to provide clarification.

Greg Petesch advised that a statement of intent is not necessary.

Rep. Keenan made a motion that SB 325 be TABLED.

Rep. Hoffman stated he believed the bill might confuse the Appropriations process, but should be done for commercial property.

Rep. Gilbert advised that inequities come from mass appraisals, and made a substitute motion that SB 325 BE CONCURRED IN. The motion CARRIED unanimously.

Rep. Sands made a motion that the Statement of Intent be approved. The motion CARRIED unanimously.

Rep. Gilbert made a motion that SB 325 BE CONCURRED IN with the Statement of Intent. The motion CARRIED unanimously.

APPOINTMENT OF SUBCOMMITTEES TO STUDY OTHER SENATE BILLS: Chairman Ramirez appointed Reps. Harp, Hoffman, and Harrington to study SB 22 and report back to the Committee.

Chairman Ramirez appointed Reps. Gilbert, Williams, and Ramirez to study SB 390 and report back to the Committee.

Chairman Ramirez appointed Reps. Sands, Koehnke, and Ellison to study SB 55, and report back to the Committee.

Chairman Ramirez appointed Reps. Harrington, Patterson,and Gilbert to study SB 183, and report back on conflicts between it and the lottery clean-up bill.

All subcommittees were asked to report back to the Committee on April 7.

DISPOSITION OF SENATE BILL NO. 337: Rep. Patterson made a motion that SB 337 BE CONCURRED IN.

Rep. Raney made a motion to insert "(d) is unmarried" on page 2, line 17, of the bill. The motion CARRIED unanimously.

Rep. Patterson made a motion that SB 337 BE CONCURRED IN AS AMENDED. The motion CARRIED with all members voting aye, except Reps. Harp, Hoffman, Ream, and Asay, who voted no.

ADJOURNMENT: There being no further business before the Committee, the meeting was adjourned at 10:40 a.m.

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date April 6, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	✓		
REP. ASAY	✓		
REP. ELLISON			✓
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP	✓		
REP. HARRINGTON	✓		
REP. HOFFMAN	✓		
REP. KEENAN	✓		
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE			✓
REP. WILLIAMS	✓		

CS-30

STANDING COMMITTEE REPORT

APRIL 6 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report SENATE BILL NO. 325

☐ do pass
☐ do not pass

☒ be concurred in
☐ be not concurred in

☐ as amended
☒ statement of intent attached

Representative Jack Ramirez, Chairman

STATEMENT OF INTENT

It is the intent of this legislation to embody into statute the current practice of the department of revenue in determining depreciation including functional obsolescence and economic obsolescence. This bill is not intended to change the current practice of the department of revenue.

THIRD reading copy (BLUE color)